



**Transportation
Security
Administration**

**TRANSPORTATION SECURITY ADMINISTRATION
FREEDOM OF INFORMATION ACT (FOIA)
REPORT
FISCAL YEAR 2002**

I. Basic Information Regarding Report

A. Person to be contacted with questions about the report:

Patricia M. Riep-Dice
Associate Director
Freedom of Information Act/Privacy Act Division
Office of Law Enforcement and Security Liaison
Transportation Security Administration
202/385-1095

B. Electronic address for report on the World Wide Web:

foia@tsa.dot.gov

C. Person to be contacted for a copy of the report in paper form:

Donna Clavelli
Senior FOIA Specialist
Freedom of Information Act/Privacy Act Division
Office of Law Enforcement Security Liaison
Transportation Security Administration
202/385-1096

II. How to Make a FOIA Request

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

Name/Title

Address

Telephone/Facsimile¹

Electronic Address for E-FOIA Request

Patricia M. Riep-Dice, Associate Director for Freedom of Information

Transportation Security Administration

TSA-1/Room 3624

400 Seventh Street, SW

Washington, DC 20590



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(202) 385-1348 / (202) 493-1801
foia@tsa.dot.gov

B. Brief description of the agency's response-time ranges.

Upon establishing the Transportation Security Administration's FOIA/PA Division, we inherited 149 outstanding security related FOIAs from the Federal Aviation Administration. The responses to those FOIAs were broken into two categories: FOIAs for which the search was still being conducted and FOIAs for which the documents had been located and needed review and redaction. Those documents that were being reviewed contained a category of information called Sensitive Security Information (SSI), which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(3), and require an expert on the subject to review the redactions made. Because of this additional review, our response time for documents containing SSI has become very lengthy. In addition, we have received numerous requests from applicants for TSA security screener positions for records relating to their application. To meet its statutory deadline, TSA recruited and hired over 40,000 security screeners during 2002. Because of the large volume of applications for these positions and the short time period involved, the indexing of these records is not yet complete. In addition, these records are being maintained at several off-site locations by TSA's contractor, NCS Pearson. At the present time, these factors make retrievability of job applicant records a time consuming process. Requests for documents other than noted above are being answered in a timely manner.

C. Brief description of why some requests are not granted.

TSA has been withholding Sensitive Security Information, which is exempt from release under Exemption (b)(3) of the FOIA.

III. *Definitions of Terms and Acronyms Used in the Report*

A. Agency-specific acronyms or other terms.

TSA – Transportation Security Administration

SSI - Sensitive Security Information (49 U.S.C. § 40119 and 49 C.F.R. Part 1520)

B. Basic terms expressed in common terminology.

1. FOIA/PA Request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself that are contained in a Privacy Act system of records; such requests are also treated as FOIA requests.



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2. Initial Request -- a request to a federal agency for access to records under the FOIA.
3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track Processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited Processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records that warrants prioritization of the request over other requests that were made earlier.
7. Simple Request -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. Complex Request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.
10. Partial Grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA exemptions, because there are no responsive agency records, or for some procedural reason (such as failure to pay applicable fees).
12. Time Limits -- the time period pursuant to the FOIA for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).



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13. Perfected Request -- a FOIA request for records that adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 Statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA Exemption (b)(3).

15. Median Number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average Number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statute

List of Exemption 3 statutes relied on by agency during current fiscal year.

49 U.S.C. 40119, implemented by 49 CFR Part 1520 (Sensitive Security Information or SSI)

1. Brief description of type(s) of information withheld under each statute

49 U.S.C. 40119 provides for the non-disclosure of information that if released, would be (1) an unwarranted invasion of personal privacy; (2) reveal a trade secret or privileged or confidential information; or (3) be detrimental to the safety of passengers in transportation, as determined in regulations issued by the Under Secretary of Transportation for Security (the head of TSA). [Note that the Homeland Security Act of 2002, P.L. 107-296, amended and broadened TSA's authority, however, this amendment is not effective until March 1, 2003.

The Under Secretary promulgated regulations implementing 49 U.S.C. 40119 at 49 C.F.R. Part 1520. In those regulations, he describes all information protected under this statute as "Sensitive Security Information" or "SSI." The following sections of the regulations were asserted in withholding Sensitive Security Information pursuant to Exemption 3.

1520.7(a) exempts from disclosure any approved, accepted or standard security program
1520.7(b) Security Directives and Information Circulars
1520.7(f) Description of, or technical specifications of, objects used to test screening equipment and equipment parameters under the rules listed in Section 1520.5(a)(1) through (6)



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1520.7(h) any information that TSA has determined may reveal a systemic vulnerability of the aviation system, or a vulnerability of aviation facilities, to attack.

1520.7(h)(2) specific gate or other location on an airport when an event occurred 12 months or more before the date of the release of information

1520.7(h)(3) protects the identity of the special agent who conducted the investigation or inspection.

1520.7(l) any draft, proposed, or recommended change to the information and records identified in this section.

1520.7(m) the locations at which particular screening methods or equipment are used under the rules listed in 1520.5(a) through (6) if TSA determines that the information meets the criteria of 49 U.S.C. 40119

1520.7(n) any screener test used under the rules listed in 1520.5(a) through (6)

1520.7(p) performance data from screening systems, and from testing of screening systems under the rules listed in 1520.5(a) through (6)

1520.7(q) threat images and descriptions of threat images for threat image projection systems under the rules listed in 1520.5(1) through (6)

2. Statement of whether a court has upheld the use of each statute

N/A

V. Initial FOIA/PA Access Requests

A. Numbers of Initial Requests:

1. Number of requests pending as of end of preceding fiscal year: **0**
2. Number of requests received during current fiscal year: **401**
3. Number of requests processed during current fiscal year: **208**
4. Number of requests pending as of end of current fiscal year: **193**

B. Disposition of initial requests.

1. Number of total grants: **7**
2. Number of partial grants: **10**
3. Number of denials: **35**

a. Number of times each FOIA exemption used (counting each exemption once per request).

- (1) Exemption 1 --0
- (2) Exemption 2--1
- (3) Exemption 3--23
- (4) Exemption 4--8
- (5) Exemption 5--7
- (6) Exemption 6--6
- (7) Exemption 7(A)--7



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- (8) Exemption 7(B)--0
- (9) Exemption 7(C)--2
- (10) Exemption 7(D)--0
- (11) Exemption 7(E)--2

4. Other reasons for nondisclosure (total): 156

- a. No records-- 24
- b. Referrals-- 8
- c. Request withdrawn --124
- d. Fee-related reason--0
- e. Records not reasonably described --0
- f. Not a proper FOIA request for some other reason--0
- g. Not an agency record--0
- h. Duplicate request --0
- i. Available from other source--0
- j. Other (Specify)--0
 - Non-possession--0
 - Privacy Act request--0

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Number of appeals.

- 1. Number of appeals received during fiscal year: 2
- 2. Number of appeals processed during fiscal year: 2

B. Disposition of appeals.

- 1. Number completely upheld: 1
- 2. Number partially reversed: 0
- 3. Number completely reversed: 0

a. Number of times each FOIA exemption used: 1

- (1) Exemption 2---1
- (2) Exemption 3---0
- (3) Exemption 4---0
- (4) Exemption 5---0
- (5) Exemption 6---0
- (6) Exemption 7(A)---0
- (7) Exemption 7(B)---0
- (8) Exemption 7(C)---0
- (9) Exemption 7(D)---0



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(10) Exemption 7(E)---0

4. Other reasons for nondisclosure (total): 1

- a. No records--0
- b. Request withdrawn--0
- c. Not a proper FOIA request for some other reason--0
- d. Duplicate request --0
- e. Other (specify)
 - Remanded appeals--0
 - Processed as original FOIA request—0
 - Fee-related issue--1
 - No answer to initial request--0

VII. *Compliance with Time Limits/Status of Pending Requests*

A. Median processing time for requests processed during the year.

- 1. Simple requests (if multiple tracks used).
- 2. Complex requests (specify for any and all tracks used).
- 3. Requests accorded expedited processing.
 - a. Number of requests processed: **1**
 - b. Median number of days to process: **92**
- 4. Requests not using multi-track processing.
 - a. Number of requests processed: **208**
 - b. Median number of days to process: **113**

B. Status of pending requests.

- 1. Number of requests pending as of end of current fiscal year: **193**
- 2. Median number of days that such requests were pending as of that date: **138**

VIII. *Comparisons with Previous Year*

A. Comparison of numbers of requests received: **FY 2000 – N/A**

B. Comparison of numbers of requests processed: **FY 2000 – N/A**



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C. Comparison of median number of days requests were pending at the end of fiscal year: **FY 2000 – N/A**

D. Other statistics significant to agency—

E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

As stated previously, upon establishing the Transportation Security Administration's FOIA/PA Division, we inherited 149 outstanding security related FOIAs from the Federal Aviation Administration. The responses to those FOIAs were broken into two categories: FOIAs for which the search was still being conducted and FOIAs for which the documents had been located and needed review and redaction. Those documents that were being reviewed contained a category of information called Sensitive Security Information (SSI), which is exempt from disclosure pursuant to 5 U.S.C. § 552 (b)(3), and require an expert on the subject to review the redactions made. Because of this additional review, our response time for documents containing SSI has become very lengthy. In addition, we have received numerous requests from applicants for TSA security screener positions for records relating to their applications. To meet its statutory deadline, TSA recruited and hired over 40,000 security screeners during 2002. Because of the large volume of applications for these positions and the short time period involved, the indexing of these records is not yet complete. In addition, these records are being maintained at several off-site locations by TSA's contractor, NCS Pearson. At the present time, these factors make retrievability of job applicant records a time-consuming process. Requests for documents other than noted above are being answered in a timely manner.

At this time we are hiring additional staff and are working on obtaining an SSI expert to work in the FOIA/PA Division. The SSI expert would not only be reviewing the documents redacted by the FOIA staff, but would be helping the FOIA staff to acquire the expertise knowledge of SSI. This would dramatically increase the speed with which the Division could process FOIA requests that sought documents that contain SSI. Because of the sensitivity of these documents, this is not a subject we take lightly. Until coming to TSA, the FOIA/PA Division staff, although very knowledgeable in the FOIA/PA, had never been exposed to SSI material and have been obtaining knowledge by experience. As we are all aware, their knowledge has grown a tremendous amount since mid May and is still growing. The hiring of an SSI expert is expected to not only help this office eliminate the backlog that was inherited from the FAA, but, continue to process requests for SSI documents in a timely manner.

IX. *Costs/FOIA Staffing*

A. Staffing levels.



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1. Number of full-time FOIA personnel: 6

4 from 5/19/02 – 7/28/02
5 from 7/28/02 – 8/25/02
6 from 8/25/02 – 9/30/02
2. No. of personnel with part-time/occasional FOIA duties (in total work years): 1/2 work years
3. Total number of personnel (in total work years): 2 work years

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals): \$133,050.79
2. Litigation-related activities (estimated): 30,665.29
3. Total costs: \$1663,716.08

X. Fee

A. Total amount of fees collected by agency for processing requests: **\$0**

B. Percentage of total costs: 0

XI. FOIA Regulations (Including Fee Schedule)

Attached is a copy of the Department of Transportation FOIA Regulations, 49 CFR Part 7, Public Availability of Information